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Spring 2-1-2018

# JRNL 300.01: First Amendment and Journalism Law

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# JRNL 300: First Amendment and Journalism Law

Syllabus – Spring 2018

## Scope

This course aims to do two things: expose students to the full scope of First Amendment issues both historically and in contemporary America and introduce students to the core laws and legal issues they may face as reporters. A special emphasis is made on issues of access and other legal matters within the State of Montana. This course is required of all Journalism majors and minors at the University of Montana School of Journalism.

## Learning Outcomes

Successful JRNL 300 students will:

1. **Understand the history of the First Amendment and current issues still being debated in a Constitutional context.**
2. **Know the impact of critical cases in the establishment of free speech, free press and media law cases.**
3. **Know the status of Montana laws and policies in terms of open meetings, freedom of information and public access.**
4. **Be able to read and understand core arguments outlined in court decisions.**
5. **Understand the importance of the legal system in ensuring the freest flow of information possible.**
6. **Have a basic understanding of legal concepts of copyright, privacy and how digital technologies are effecting both.**

## Grading options

This course must be taken for a traditional letter-grade. No-credit grading is not permitted. The Montana University System's plus/minus grading system will be used in this class.

## Class Meetings

Mondays and Wednesdays, 2:10 p.m. — 3:30 p.m., in STON 304.

## Instructor Info

Lee Banville, Associate Professor, School of Journalism.

**Office:** Don Anderson Hall 406

**Office hours:** Mondays 9:30-11:00 a.m. and Thursdays 3:30-4:30 p.m. I'm also available at other times by appointment.

**Office phone:** 243-2577.

**My regular e-mail:** [lee.banville@umontana.edu](mailto:lee.banville@umontana.edu).

## Required Textbook

*Mass Media Law*, 18<sup>th</sup> Edition, by Don Pember and Clay Calvert. You can buy it for \$45 at the bookstore. There are also a boat-load of places that you can order it from for \$24 or less on Amazon. **YOU MUST OWN THE 18<sup>th</sup> EDITION.** The older 17<sup>th</sup> (or the Clem Work book) is no longer used.

- Read the assigned chapters before class.
- Additional Readings may be assigned and posted on Moodle.

## Exams

Scheduled for March 21 and May 9. Midterm will be a series of short answers and one essay in class. The final will be a take home series of essays. Answers will be submitted via Moodle and must be submitted by May 9<sup>th</sup> at 5:20 p.m.

## Course Grading

Participation	15%
Legal Theory Analysis	10%
Case Briefs	20%
Midterm	25%
Final Exam	30%

## Case Briefs/Decisions

You will write two two- to four-page, double-spaced case briefs for this class. These briefs will be due either on the day of the class argument or one week later for judges in those cases. Each paper will account for 10% of your final grade. Briefs must follow the structure outlined in the “How to Write a Brief” document posted to Moodle.

## Attendance and participation

Participation in this class will be based upon your ability to answer at least two questions over the course of the class. Approximately 5-10 times each class a student will be called on to explain a case, concept or issue highlighted in the readings for that class. Students who are not in class that day without an excused absence will receive a “0” for that assignment. Students who are in class, but cannot answer the question will received 25% credit. Students who can offer a basic understanding of the issue receive 75% credit and those who answer the question fully and accurately receive 100%. These assessments will appear in Moodle within two days of the class.

If a student cannot attend a class are responsible for emailing me BEFORE class and they will not be called on. Documented medical or family emergencies will also receive consideration.

**Cell phones** must be off or on vibrate while you are in class and must be off and totally out of your sight during examinations. Do not answer a call during class. Anyone whose phone rings during class will be made fun of by me.

## Academic Honesty

I expect your honesty in presenting your own work for this course. Academic misconduct at The University of Montana is subject to an academic penalty ranging from failing the assignment to expulsion from the university. Students need to be familiar with the Student Conduct Code. <http://www.umt.edu/SA/VPSA/index.cfm/page/1321>

## Plagiarism

As defined by “The University of Montana Student Conduct Code” plagiarism is: “Representing another person's words, ideas, data, or materials as one's own.” This is strictly prohibited in this class and any case of plagiarism in this course will be subject to the penalties outlines in the student code of conduct.

## Students with Disabilities

Students with disabilities will receive reasonable modifications in this course. Your responsibilities are to request them from me with sufficient advance notice, and to be prepared to provide verification of disability from Disability

Services. Please speak with me after class or during my office hours to discuss the details. For more information, visit the Disability Services for Students website at <http://life.umt.edu/dss>.

## **Schedule (Subject to Change)**

### **Week One: The Law**

JAN 22: Class requirements and an introduction to the core ideas and issues surrounding the law and media as well as the First Amendment. How is the American legal system structured and how did legal systems deal with printing and expression?

For JAN 24: Read Pember, Pages 1-32 (POSTED ON MOODLE)

For JAN 29: Read Pember, pp. 33-44

### **Week Two: First Amendment and Legal Theories**

Explores the uncertain beginnings and early tests of the First Amendment and its protection for free speech and the press. How does the court consider and rule on First Amendment cases? This class outlines major theories of free speech and the press.

For JAN 31: Read Pember, pp. 44-69

For FEB 5: Re-read Pember, pp. 50-69

### **Week Three: Prior Restraints**

From government censorship to limiting student protests, when can the government stop you from publishing or speaking?

For FEB 7: Paper due (Assignment on Moodle). Read Pember, pp. 70-91

For FEB 12: Read Pember, pp. 91-115

### **Week Four: Limits on Speech**

Schools and Time, place and manner restrictions.

For FEB 14: Read Pember, pp. 115 – 126

FEB 19: NO CLASS

For FEB 21: Read Pember, pp. 126-143

### **Week Five: Hate Speech/Symbolic Speech**

Is speech that is racist or provocative subject to government limits?

For FEB 21: Read Pember, pp. 126-143

For FEB 26: Arguments due in Case One

### **Week Six: Court is in Session/Libel**

What are the elements of a libel case?

FEB 26: First Case Arguments

For FEB 28: Read Pember, pp. 148-177

For MARCH 5: Read Pember pp. 180-200

**Week Seven: Libel (Proof of Fault)**

What must a defendant prove to win a libel case?

For MARCH 7: Read Pember, pp. 180-215

For MARCH 12: Read Pember, pp. 218-249

**Week Eight: Libel Part Deux**

What happens if you lose a libel case?

For MARCH 14: MIDTERM.

For MARCH 19: Read “The Right to Privacy” posted to Moodle.

**Week Nine: Invasion of Privacy**

What are privacy rights and how does Montana and the Federal government differ on these questions?

For MARCH 21: Read Pember, pp. 253-277

For APRIL 2: Read Pember, pp. 277-290

**Week Nine: SPRING BREAK**

**Week Eleven: Privacy**

For APRIL 4: Read Pember, pp. 291-315

For APRIL 9: PREP CASE #2

**Week Twelve: Free Press/Fair Trial**

How do we balance between covering issues of public concern and the right of a defendant to receive a fair trial from an unbiased jury?

For APRIL 11: Read Pember, pp. 431-455

For APRIL 16: Read Pember, pp. 457-484

**Week Thirteen: Trial and Access**

What are our rights when it comes to accessing record and documents held by the Federal and Montana government?

For APRIL 18: Read Pember, pp. 320-362

For APRIL 23: Read Pember, pp. 386-414

**Week Fourteen: Shield Laws/Protecting Sources**

What are copyright protections and what do I have the right to use? How do I protect my work?

For APRIL 25: Read Pember, pp. 415-429

For APRIL 30: Read Pember, pp. 518-550 and article posted to Moodle

**Week Fifteen: Copyright**

What are copyright protections and what do I have the right to use? How do I protect my work?

For MAY 2: Read Pember, pp. 551-565

**Final Due Wednesday, May 7, 2018 at 5:20 p.m.**